

July 24, 2009

GLORIA L. FRANKLIN, CLERK

U.S. BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

MIHAI OFITERU and EVELYN HYUN
SOON OFITERU

No. 08-12829


Debtor(s).

Memorandum re Chapter 13 Eligibility

The issue before the court is whether a wholly unsecured junior deed of trust is to be counted as secured or unsecured for Chapter 13 eligibility purposes under § 109(e) of the Bankruptcy Code. The court agrees with Chief Judge Bowie's opinion in *In re Groh*, 405 B.R. 674 (Bkrtcy.S.D.Cal 2009) that such debt is counted as unsecured. Accordingly, this case will be dismissed 10 days after entry of an appropriate order unless before that time the debtors have sought conversion to another chapter.

Counsel for objecting creditor JP Morgan Chase Bank shall submit an appropriate form of order forthwith.

Dated: July 24, 2009


Alan Jaroslovsky
U.S. Bankruptcy Judge